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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 19th April 2005

No. 3814—li/1(J)-8/2005-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 17th July 2004 in Industrial Dispute Case No. 70/1999 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Management of Rama Lingeswar Rice Mill, Uppalasingi, Gajapati represented through the President/Secretary, Mill Workers Union, Keviti Street, Paralakhemundi, Gajapati was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE No. 70 OF 1999

Dated the 17th July 2004

Present :

Shri R. K. Saran
Presiding Officer, Labour Court
Jeypore, Dist. Koraput.

Between :

The Management of .. First Party—Management
Rama Lingeswar Rice Mill
At. Uppalasingi, P. O. Ranipeta
Dist. Gajapati.

Versus

Its Workmen .. Second Party—Workmen
represented through the President/Secretary
Mill Workers Union, Keviti Street
Paralakhemundi, At/P.O. Paralakhemundi
Dist. Gajapati.

Under Sections 10 & 12 of the Industrial Disputes Act, 1947

Appearances :

For the First Party–Management	..	Shri N. K. Mishra, Advocate, Madhusudan Nagar, Cuttack.
For the Second Party–Workmen	..	Shri D. Venkat Rao, President of Mill Workers Union, Paralakhemundi.
Date of Argument	..	Nil
Date of Award	..	17-7-2004

AWARD

The Government of Orissa under letter No. 7847-L.E., dated the 10th June 1999 of the Labour & Employment Department have referred the following dispute for adjudication in exercise of power under Section 12 (5), read with Section 10-1(c) of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Gumalu Pradhan, Driver, Shri K. Karuvulu and Shri Kanta Rao, Khalasies by the employer of M/s Rama Lingeswar Rice Mill, At Uppalasingi, P. O. Ranipeta Dist. Gajapati with effect from the 21st January 1998 is legal and/or justified ? If not, to what relief the workmen Shri Gumalu Pradhan, Driver, Shri K. Karuvulu and Shri Kanta Rao, Khalasies are entitled ?”

2. The Mill Workers of Gajapati district strick work from the 15th November 1997 to the 19th January 1998 for fulfilment of their demands of higher wages and other service facilities. They returned to work on the 20th January 1998. The President of the Workers Union raised a dispute before the District Labour Officer, Gajapati alleging illegal retrenchment of Driver Shri Gumalu Pradhan and Khalasies Shri K. Karuvulu and Shri Kanta Rao of M/s Rama Lingeswar Rice Mill, Uppalasingi. A conciliation proceeding was initiated in which the employer did not attend. A conciliation failure report was submitted to the Government. He found existence of an Industrial Disputes. The dispute, thus came for adjudication.

3. It is the case of the workmen that, they had been working in Rama Lingeswar Rice Mill for more than 15 years continuously. The owner of the Mill allowed other workers to join on the 21st January 1998 after the strike was called off but refused to engage them. There was no notice or enquiry or compliance of the statutory requirements. They have prayed for reinstatement with back wages.

4. That engagement of Khalasi was casual in nature that engagement of driver was during working season only that the engagement was never continuous, that there was no relationship of workmen & employer that the industry was seasonal, that the driver refused to join and refused the registered notice sent to him by post that the Khalasies during the strike period engaged themselves in other Mills to get extra remuneration and incentives are the objections raised by the management.

5. Issues as per Schedule at paragraph No. 1 arise for decision

6. Shri Kanta Rao Khalasi and Shri D. Venkat Rao, President of Mill Workers Union, Gajapati are the two witnesses examined on behalf of the workmen. No witnesses has been examined for the management. Parties have not filed any documents.

7. After passing award by this Court, dated the 19th July 2001 the management approached the Hon'ble Court, the Court after hearing the case has been pleased to remand the case to this Court for fresh award, after giving opportunities to the parties. Accordingly sufficient opportunity were given to them. They also took part in the proceedings for certain dates. Subsequently, the parties remained absent continuously from the 23rd April 2004 till the judgement. The workmen also remained absent. Therefore, considering the materials already available on record, the following order follows.

8. W. W. No. 1 & W. W. 2 have deposed that all the three workmen had been working continuously in Rama Lingeswar Rice Mill, Uppalasingi on monthly wages. The Mill Workers strick work from the 15th November 1998 after giving strike notice on the 20th January 1998. The strike was last resort of the workers as their demands for enhancement of wages could not be fulfilled. The strike was called off and the workers resumed duty on the 20th January 1998 on intervention of the Collector, Gajapati. All the three workmen were not allowed to join while rest of the workers of the Mill joined on the 20th January 1998. Each of the workman was getting Rs. 900 per month when they observed strike.

9. Registers and payment vouchers are statutorily required by the management to maintain. Those records would indicate names of the workers, duration of engagement and payments received by them. No explanation has been given by the management why those records have not been produced in the Court. Non-examination of the owner of the Mill or any other witness on behalf of the management would show that the management is unable to explain the legality of retrenchment of the workmen.

10. All the three workers of the Mill satisfy the requirements under Section 2 (s) of the Act to treat them as workmen. The Act mandates compliance of the provisions under Section 25-F for retrenchment or termination of the workmen. Admittedly requirements have not been complied. Refusal to engage by a verbal order is illegal. All the workmen are entitled to reinstatement with back wages.

11. In the result the reference is allowed. Termination of services of Shri Gumalu Pradhan, Driver, Shri K. Karuvulu and Shri Kanta Rao, Khalasies by the 1st party employer with effect from the 20th January 1998 is held illegal and unjustified. The management is directed to reinstate them forthwith and to pay back wages within three months besides other service benefits.

The reference is accordingly answered.

Dictated and corrected by me.

R. K. SARAN
17-7-2004
Presiding Officer, Labour Court,
Jeypore

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17-7-2004
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By order of the Governor
D. MISHRA
Under-Secretary to Government